

Chapter 9

Dual Citizenship in Italy: An Ambivalent and Contradictory Issue

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Abstract

The discussion about dual citizenship in Italy was and is determined by a dominant theme. Primarily, this topic is related to questions of migration, in the sense of both emigration and immigration. After the Second World War, the problem of Italians in areas “lost in war” was added to this. Under these conditions, this chapter examines the case of Italy with a focus on the evolution of its citizenship law. Already in the first basic citizenship law of 1912 and although originally against dual citizenship, the young state wanted to maintain links with the large diaspora of Italian emigrants. Including Italians abroad as citizens across several generations was fully compatible with an ethno-cultural conception of national identity. Italy also permits the so-called *italiani oriundi* – i.e. persons of Italian ancestry living permanently abroad – to regain Italian citizenship if they can prove that none of their direct ancestors has explicitly renounced Italian citizenship. The second group of residents abroad for whom Italy promotes the restoration of citizenship are ethnic Italians in the neighbouring territories of Slovenia and Croatia, lost after World War II. Unlike for the *italiani oriundi*, these latter groups must establish a certain familiarity with the Italian culture and language. The final category discussed in the chapter are non-Italian immigrants whose numbers have been growing substantially since the 1990s. Although dual citizenship is tolerated in residence-based naturalisations, these are comparatively rare. Initiatives by the centre-left to introduce moderate forms of *ius soli* or *ius culturae* (naturalisation based on years of schooling) for the second generation have not thus far been successful.

1. Introduction

The discussion about dual citizenship in Italy was and is determined by a dominant theme. Primarily, this topic is related to questions of migration, both in the sense of emigration and immigration. After the Second World War, the problem of Italians in areas “lost in war” was added to this. The expulsion and flight of Italians from Istria (today Slovenia and Croatia), in particular, as a result of the Second World War still plays an important role in Italian domestic politics today (Pupo and Spazzali 2003).

Additionally, the social narrative that prevails in Italy counts the state among those (“belated”) nations that have developed a cultural conception of their identity with a partly ethnic colouring. In contrast to the civic nation, whose membership is fundamentally based on the criterion of citizenship, common political values and respect for institutions (cf. Haller, Raup and Ressler 2009), the ethno-cultural nation as an “ancestral community” is oriented towards (constructed) common descent, language, customs and traditions (cf. Lüsebrink 2009).

This social narrative of the nation, with a strongly cultural-linguistic and partly ethnic dimension, which developed during the unification of Italy (*Risorgimento*), was constantly renewed by the demand for the liberation and annexation of the *terre irredente* – the still unredeemed Italian territories outside the state borders – and was elevated to a state ideology by fascism. This view has a *longue durée* quality and is still dominant in wide political circles today (cf. Bollati 2011; Patriarca 2010; Tullio-Altan 1999). The shared link of the cultural nation is the *ius sanguinis*, which we discuss below, through which Italians remain connected with their nation even from outside Italy (cf. Haller, Raup and Ressler 2009).

In the debate on dual citizenship in Italy we are thus dealing with three categories of person, two of which have to do with migration: (1) Italians who have emigrated, (2) non-Italians who have immigrated to Italy and (3) co-ethnic minorities in a foreign state towards whom Italy acts as a protector kin state. The waves of emigration and immigration with which Italy has been confronted since its unification in 1861, as well as its kin-state policy in favour of its national minority in ex-Yugoslavia, have had a lasting influence on attitudes towards dual citizenship. This policy is characterised by openness towards Italians and closure towards foreigners. Such *inward openness* and *outward closure* are strongly linked to the ethno-cultural narrative of the nation, which runs like a thread through Italian citizenship policies.

2. A rapprochement: Italy’s emigration and immigration

Thus far, Italy has had two major waves of emigration and is currently experiencing a third one. The first wave occurred between the unification of Italy (1861) and the end of the First World War. Between 1876 and 1915, Italy was one of the most important emigration countries in the world, with about 14 million Italians leaving their country – about one third of the population at that time (Associazione Internet degli Emigrati Italiani 2019). The second wave of emigration, involving about 4 million, took place after the Second World War and up until the 1970s (Albani and Pittau 2017; Marro 2019; Rosoli 1978). With the economic crisis starting in 2007, emigration has increased again but, this time, Italy is primarily experiencing a brain drain, with young and better-qualified citizens leaving the economically stagnating country (Colucci 2018). Between 1861 and 1985 – i.e. during the first and second waves of migration – almost 19 million Italians emigrated; today

about 5 million Italians live abroad¹ while, at the beginning of the 2000s, this figure was around 2.4 million (F.Q. 2019; Mancino 2019).

Between 2006 and 2019, Italian outmigration increased in absolute terms by 70.2 per cent from just over 3.1 million Italian citizens residing abroad registered in the AIRE (*Anagrafe italiani residenti all'estero*/Register of Italian citizens residing abroad)² to almost 5.3 million (the number of Italian citizens living in foreign countries). This represents 8.8 per cent of Italy's population of around 60 million. Almost half of the Italians registered in AIRE come from Southern Italy (48.9 per cent, of whom 32.0 per cent are from the south and 16.9 from the islands); 35.5 per cent come from the north (18.0 per cent from the northwest and 17.5 from the northeast) and 15.6 per cent from the centre. Over 2.8 million (54.3 per cent) live in Europe and over 2.1 million (40.2 per cent) in America. The largest communities are located in Argentina, Germany, Switzerland, Brazil and France (see Table 9.1). They are followed (in per cent) by Great Britain (6.2), the USA (5.1), Belgium (5.1), Spain (3.4), Australia (2.8), Canada (2.6), Venezuela (2.1), Uruguay (1.9), Chile (1.1) and the Netherlands (0.9) (cf. Fondazione Migrantes 2019).

Table 9.1. Countries with the highest percentage of Italian citizens in 2019 (in %)

	Number	%
Argentina	842,615	15.9
Germany	764,183	14.5
Switzerland	623,003	11.8
Brazil	447,067	8.5
France	422,087	8.0

Source: Fondazione Migrantes (2019, 25).

In 2019, mobility continues to mainly affect young people (18–34 years, 40.6 per cent) and young adults (35–49 years, 24.3 per cent). Of these recent emigrants, 71.2 per cent remained in Europe and 21.5 per cent emigrated to America (14.2 per cent to Latin

¹ On 01 January 2019, 5,288,281 Italian citizens were registered at AIRE. More than half of them (51.5 per cent) are registered as emigrants but the numbers of those registered by birth abroad continues to grow (39.7 per cent). New acquisitions of Italian citizenship are 3.4 per cent (e.g. *iure conubii*), re-registrations due to unavailability are 4.0 per cent. The regulations are quite complex, since it is not necessarily true, for example, that all who are registered are Italian citizens by birth. In fact, a growing number are Italian-naturalised foreigners who, after a period in Italy, re-emigrate to a third country (cf. Fondazione Migrantes 2019).

² AIRE also registers those who had moved their residence abroad before the law came into force. Registration in the AIRE is a legal obligation: (1) for Italian citizens who wish to transfer their residence abroad for more than 12 months; (2) for Italian citizens who were born abroad and have always lived outside the Italian territory; (3) for those who acquire Italian citizenship abroad (see Ministero degli Affari Esteri e della Cooperazione Internazionale 2020a).

America). In 2018, the United Kingdom was the first destination with over 16 per cent of migrants (20,596) (an increase of 11.1 per cent compared with the previous year). Germany comes second with 14.3 per cent (18,385), followed by France with 10.9 per cent (14,016), Brazil with 9.1 (11,663), Switzerland with 8.0 (10,265) and Spain with 5.9 per cent (7,529) (Fondazione Migrantes 2019).

The General Directorate for Italians Abroad and Migration Policies (in the Ministry of Foreign Affairs (cf. Ministero degli Affari Esteri e della Cooperazione Internazionale 2020b) and the globally active COMITES – Comitati degli Italiani all'Estero – take care of Italians abroad. The committees, founded in 1985, are representative bodies of Italians abroad and are elected in each consular district. In addition, there are many private associations which also organise Italians who no longer have Italian citizenship – e.g. *Trentini nel mondo*, *Calabresi nel mondo*, *Veneti nel mondo*, etc. (see Ministero degli Affari Esteri e della Cooperazione Internazionale 2020c). All these organisations form a capillary network that maintains the ethno-cultural link with the Italian nation.

Table 9.2. Countries of origin of foreign citizens in Italy 2019 (in %)

	Number	%
Romania	1,206,938	23.0
Albania	441,027	8.4
Morocco	422,980	8.0
China	299,823	5.7
Ukraine	239,424	4.6

Source: Tuttitalia (2019).

In addition to emigration, there has also been immigration. After 1945, Italy had to take in Italians who had fled or had been expelled from Istria. Then, in the 1960s, there was another flow of immigration from the former Italian colonies. Immigration started to diversify in terms of origins with the fall of the Iron Curtain and new arrivals from Central and Eastern European states (e.g. from Albania, Romania, Ukraine) until immigration became truly globalised around the turn of the millennium. In 2001, immigration reached 1 million; by 2019, 5.2 million foreigners lived in Italy according to official statistics, of whom 50 per cent (2.6 million) came from a European country, 21.7 per cent from Africa (1.1 million), 20.8 per cent from Asia (1.09 million) and 7.2 per cent from the Americas (380,000). The strongest contingent of foreign nationals in Italy are Romanians, followed by Albanians, Moroccans, Chinese and Ukrainians (see Table 9.2). They are followed (in per cent) by migrants from the Philippines (3.2), India (3.0), Bangladesh (2.7), Moldova (2.5) and Egypt (2.4) (see Tuttitalia 2019).

The official figure of just over 5 million foreigners includes a further 400,000 persons who hold a regular residence certificate but are not registered in any municipality in

Italy. In 2019 approximately 100,000 asylum-seekers and an estimated 560,000 undocumented migrants have to be added to this figure. All in all, this increases the number of foreigners in Italy to about 6.2 million or 10.3 per cent of the total Italian population (cf. Colombo 2019).

Foreigners in Italy (according to data for 2018), as well as the undocumented migrants mentioned above, are employed primarily in so-called “other services” (36.6 per cent in, for example, care work, deliveries, cleaning, logistics and so on), followed by service in hotels and restaurants (17.9 per cent), work in agriculture (17.0) and construction (17.2). About 90 per cent are in dependent employment and about 80 per cent are manual workers (Diodato 2020; Ministero del Lavoro e delle Politiche Sociali 2019a).

Italy as a classic emigration country has become one of immigration since the 1970s. This is essentially due to drastic, international economic transformation processes. The collapse of the Bretton Woods System in 1973 and the oil crisis of the same year were major causes of this change. One of the consequences was that the countries of Central and Northern Europe stopped taking on new workers. Italy and other Mediterranean countries thus became a second-best solution for all those who were looking for new prospects in life.

Italy had several advantages for those, mainly from non-European and Eastern European countries, who wanted to immigrate. The approximately 8,000 km of coastline cannot be closely controlled and the legal basis for immigration, which was virtually non-existent until the early 1980s, encouraged uncontrolled immigration from abroad. Many of these migrants still find jobs in the informal labour market (cf. Ginsborg 1998).

Italy is a “young” immigration country. Three out of four immigrants came to Italy as adults. In contrast to the other OCSE countries, Italy has a relatively small number of second-generation foreigners. These amount to 0.4 per cent of the population of Italy, compared to the EU average of 3.4 per cent (Ministero del Lavoro e delle Politiche Sociali 2019a).

3. *Status civitatis*

Citizenship (*status civitatis*) is generally understood to be a special relationship between the state and the individual. The modern concept of citizenship in Italy begins with the political unification of the country in 1861. The unitary state had always attributed a central and exclusive importance to citizenship and therefore excluded dual citizenship. The first steps to regulate this complex matter were taken shortly after unification in 1865 with regulations in the Civil Code (Articles 1–15). This strong ethno-cultural bond between the state and its citizens (initially only male citizens) is the foundation on which citizenship regulations are built. We find this logic in the age of nationalism not only in Italy but, in Italy, the experience of migration that we have documented above has had a more prominent impact than in most other nation states.

The regulation of citizenship in Italy is based on two fundamental laws. The first, which is no longer in force, dates back to 1912 and does not, in principle, exclude dual citizenship. This new orientation, in contrast to the regulations introduced in 1865, is based on the experience of Italian emigration and the goal of maintaining links with the Italian “diaspora” and the possibility of returning to the “national community”. Despite several amendments, the law remained in force until the new citizenship law of 1992. Thus, a person born abroad could acquire a foreign citizenship *iure soli* without losing his or her Italian one but could renounce the latter after coming of age.

It is worth mentioning that the law gave men an absolute priority over women with regards to citizenship status. This meant that the citizenship of the entire family was linked to that of the man, the husband and father. Thus the *status civitatis* of the wife and children changed automatically when that of the husband changed. The wife could never have any other citizenship than that of her husband. An Italian female citizen who married a foreigner lost her citizenship. If the marriage was dissolved, the wife would get her Italian citizenship back if she resided in Italy and declared that she wanted to regain her former citizenship. A two-year residence in Italy since the dissolution of the marriage counted as the equivalent of the declaration.

The law on Italian citizenship of 1912 (Legge 1912, No. 555) was replaced only by the law of 1992 (Legge 1992, No. 91). The 1992 Act, which has also been amended several times, still retains elements of the 1912 Act and demonstrates more than 100 years of continuity in the toleration of dual citizenship, as the rules in this area are based on norms and values that were already in force before 1912. In contrast to the law of 80 years ago, the new law, which is still in force today, emphasises the centrality of the individual’s decision to acquire or lose citizenship, introduces equality between men and women (already established by the Constitutional Court in its judgments No. 87/1975 and 30/1983) and recognises the right to dual citizenship. In total there are four basic principles on which the 1992 law is based:

1. the transfer of citizenship by descent (principle of *ius sanguinis*);
2. the acquisition of Italian citizenship by birth on Italian territory (*ius soli*) but only in very specific cases;
3. the general toleration of dual citizenship; and
4. the right of individuals to apply for the acquisition or renunciation of Italian citizenship (see Ministero degli Affari Esteri e della Cooperazione Internazionale 2019).

4. How to become an Italian citizen

Today, the acquisition of Italian citizenship is regulated by State Law No. 91 of 05 February 1992 and by subsequent regulations (Legge 2000 and Legge 2006). The decrees of the President of the Republic DPR No. 572 (12 October 1993) (DPR 1993) and DPR No. 362

(18 April 1994) (DPR 1994) regulate the implementation of the law. The conditions for acquiring citizenship are:

1. *ius sanguinis*: in principle, Italian citizenship is acquired by descent from at least one Italian parent (*ius sanguinis*). Minors acquire Italian citizenship if their descent from an Italian citizen is recognised or established by a court of law or if they are adopted or their parents acquire Italian citizenship;
2. *ius soli*: in exceptional cases, acquisition *iure soli* (i.e. by birth on Italian territory) is granted if the child's parents are stateless or unknown. This is also the case for children of foreign parents whose citizenship is not transmitted to their children *iure sanguinis*;
3. *ius conubii*: citizenship is acquired by marriage or by cohabitation based on the law of 2016 (*Unione di fatto/de facto* union);
4. *ius domicilii*: citizenship is also acquired through a long period of residence (*ius domicilii*). EU citizens can apply for citizenship after four years if they have resided in Italy without interruption; all others after ten years. This rule also applies to children of foreigners born in Italy who have lived in Italy without interruption until the age of majority (18 years). Political refugees and stateless persons must be resident for five years without interruption; and
5. *merits*: acquisition is also possible due to merits on the basis of special laws by a decree of the President of the Republic (Legge n. 91/1992 modificata dalla legge n. 94/2009) (Legge 2009).

After 1992, marriage still remained the privileged access to citizenship, which could be applied for only six months after marrying an Italian. In 2009, however, this part of the law was amended by the Berlusconi government, increasing the period from six months to two years (Camilli 2017). Additionally, the 1992 law shows the political weight of Italians living abroad and their lobby – they have been granted the “right to vote abroad” by the 2001 law (Legge 2001) and can elect six senators and 12 MPs via four foreign constituencies.³ This has further increased the distance between the rights of Italian citizens living abroad and those of foreigners residing in Italy (Zincone 2010).

It is no coincidence that the proposal for the “foreign electoral law” – with its unique division of the whole world into electoral districts – originated from the former neo-fascist party MSI (Movimento Sociale Italiano). In 1968, prominent members of the party founded the “Comitati Tricolori per gli Italiani nel Mondo” (Tricolour Committees for Italians in the World) for the purpose of maintaining the *italianità* (italianness) of Italians living abroad. In 1989, on the initiative of MSI party representatives, a law was passed to create a consultative body of the government and parliament for Italians abroad

³ The constitutional referendum of 20 and 21 September 2020 reduced the number of deputies from 12 to 8 and the number of senators from 6 to 4.

(Consiglio Generale degli Italiani all'Estero or CGIE). In 2001, under the Berlusconi III government (2001–2006) and with MSI member Mirko Tremaglia as Minister for Italians in the World, the law on voting rights abroad was passed. The Berlusconi government, under the leadership of this minister, passed the law on dual citizenship for Italians in the former Yugoslavia in 2006 (see Camera dei Deputati 2020).

5. Dual citizenship

The experience of strong migration flows has influenced the toleration of dual citizenship. As we will see, this fact affects Italians abroad, either because they have emigrated or because they had lost their Italian citizenship as a result of the war. Contrary to the 1983 law (whose exclusion of dual citizenship was already mitigated by the 1986 law (cf. Legge 1983 and Legge 1986),⁴ in 1992 and by subsequent amendments or additions (laws of 2000 and 2006), the right to hold several citizenships simultaneously was fully recognised.

Italy has thereby performed a u-turn. In 1963, Italy had acceded to the European Convention on the Reduction of Cases of Multiple Nationality and on Military Obligations in Cases of Multiple Nationality. In principle, this treaty rejects multiple citizenships, insists that the previous citizenship is lost if the nationality of another member state of the convention is acquired and prohibits the signatory states from authorising citizenship retention (cf. Council of Europe 1963). However, like other signatory states, Italy has never really implemented the 1963 Convention and formally denounced the first part of it in 2009. Since then, it has been bound only by the provisions relating to military service. At the same time, Italy enacted a series of regulations that allow foreigners to acquire Italian citizenship with a more-or-less explicit emphasis on their *italianità*. Without the possibility of dual citizenship, it would have been difficult for Italy to encourage “foreign Italians” to take this step if they had to renounce their current citizenship.

The possibility of dual citizenship was already included in the 1992 law, but the laws of 2000 and 2006 significantly expanded the numbers of eligible persons. This applies to the regulations concerning the descendants of former Austro-Hungarian citizens and to the descendants of Italian Yugoslavs, which did not require the renunciation of their current foreign citizenship as a condition for the granting of Italian citizenship.

On the whole, it can be said that there has been – and partly still exists – a bipartisan consensus across the Italian political camps that is motivated in different ways but cultivates the myth of “L’Altra Italia” (the other Italy outside the state borders). The “right” can thereby boast of a larger Italy and the “left” can pay tribute to the emigrated working class (Zincone 2010, 17).

⁴ The two laws of 1983 and 1986 were only a short and insignificant *intermezzo* on the way to the 1992 law.

5.1 *Oriundi italiani*⁵

The first law on citizenship after the unification of Italy in 1861 was based on the principle that membership of a society was linked to membership of a nation, a community of people with the same ancestors. Like other countries with a high number of migrants, Italy has therefore established the transfer of citizenship via *ius sanguinis* in order to maintain a link with the many emigrants (Zincone 2010). However, *ius sanguinis* initially had no direct connection to migration and only gradually became a topical issue again through it.

Italy has taken this logic into account with its 1912 law, which allowed dual citizenship under certain conditions (Legge 555/1912) in order not to break off contact with “foreign Italians”. This objective remained apparent even after the 1912 Act was repealed by the 1992 Act. The latter explicitly confirmed in Article 20 “the status of nationality acquired before that Act, except in respect of events occurring after the date of entry into force of that Act”.

The legislator *de facto* assumes that descendants of Italian citizens always retain their citizenship on the basis of *ius sanguinis* (if one parent is a foreign citizen) even if they have acquired another citizenship, unless they have explicitly renounced their Italian one. This implies that descendants of Italian citizens who, for generations, never cared about Italian citizenship can apply for its recognition since the law assumes that they actually never lost it.

In a circular of 27 May 1991, the Ministry of the Interior explained that the law refers to the recognition of citizenship for those foreigners who have emigrated to countries where the (foreign) citizenship is automatically acquired on the basis of *ius soli* there. Article 7 of the 1912 law explicitly provided that “except for specific provisions to be laid down in international treaties, Italian citizens born and resident in a foreign State and recognised as its citizens by birth shall retain Italian nationality but may renounce it upon attainment of majority or maturity”.

The Law of 1912 thus provided for the recognition of Italian nationality on the basis of paternal ancestry (or later also maternal, see below), regardless of place of birth. This claim could be waived once the person reached the age of majority. The prerequisite for re-establishing Italian citizenship is therefore proof of descent from the person originally endowed with citizen status as well as proof of the absence of interruptions in the transfer of citizenship, which could only happen by explicit renunciation.

Thus, if a child of an Italian citizen obtained the citizenship of the state of residence on the basis of *ius soli*, the child retained his or her Italian citizenship, even if the father lost his citizenship after the birth of the child and while the latter was a minor. Italy refers to these cases as *oriundi* (natives). Such persons with dual citizenship who were subject to the rules of the 1912 law did not have to choose one or the other citizenship,

⁵ “Latent Italians”, people of Italian origin (see Zincone 2010, 5).

as later provided for by Law No. 123 of 1983. This latter law was replaced by the already mentioned 1992 law and the obligation to choose was cancelled. Citizenship was thus transferred from generation to generation, even if the individual person had never taken care of it or was never aware of it.

This rule was also applied retroactively to children born abroad to Italian mothers who were Italian citizens at the time of their birth – especially to children born out of wedlock – since wives generally lost their citizenship of origin by marrying a non-Italian husband.⁶ A person only had to prove to be the descendant of an emigrated Italian and that there was no interruption in the chain of transferring citizenship.

Applying for Italian citizenship according to these provisions involves the following procedural requirements:

1. Descent from an Italian citizen must be proved without any intergenerational interruption.
2. It must be proven that the Italian ancestor has retained his/her Italian nationality until the birth of the descendant.
3. The lack of naturalisation – i.e. the acquisition of foreign citizenship or the date of an eventual naturalisation of the ancestor – must be established by a certificate from the relevant foreign authority.⁷
4. The origin of the Italian ancestor must be proven by birth and marriage certificates. In this context, it should be noted that the transfer of Italian nationality on the mother's side could initially only be carried out for children born after 01 January 1948, the date on which the Italian Constitution came into force. However, this restrictive view was successively corrected by the Court of Cassation so that citizenship by descent from the mother is, in principle, also applicable to children born before the entry into force of the Italian constitution, unless the mother had previously spontaneously and voluntarily renounced her Italian citizenship.
5. It must be confirmed that neither the applicant nor his or her ancestors have ever renounced Italian citizenship and have thus not interrupted the chain of transfer of citizenship by submitting appropriate certificates from the relevant Italian diplomatic authorities (Peterlini 2019).

⁶ Constitutional Court rulings in Italy are always retroactive and, in this case – as repeatedly stated by the Court of Cassation – even back to the time before the Constitution came into force (1948). Gender equality was first established in the 1948 Constitution.

⁷ However, if the naturalisation was voluntary, this led to the loss of Italian citizenship. Most Italian first-generation emigrants did not acquire foreign citizenship or acquired it relatively late, sometimes automatically through marriage, while their children born abroad very often acquired citizenship on the basis of *ius soli* – i.e. automatically and independently of their own will.

As already mentioned, 1861 – the year of Italy’s unification – is considered a time constraint. At that time, Italy had about 28 million inhabitants. According to estimates by the Ministry of Foreign Affairs, about 80 million⁸ “Italians” could apply for citizenship today – i.e. more than the 60 million Italian citizens that there are today. In terms of geographic distribution of the *oriundi*, around 25 million live in Brazil, followed by Argentina (20), USA (18), France (4), Canada (1.5), Uruguay (1.3), Venezuela (0.9) and Australia (0.8). So far, however, the number of those interested in taking up the citizenship offer has been limited to around 300,000 applications (Ciocca 2019).

In summary, the following can be said about the 1912 law and its timid toleration of dual citizenship. The law reaffirms the principle of *ius sanguinis* as the main reason for access to citizenship. Dual citizenship was allowed for minors born abroad in a *ius soli* country but they could opt for one of the two citizenships and were not obliged to decide until they reached the age of majority. In view of the high level of emigration, the Italian parliament opted for an ambivalent position, for a compromise between tolerating dual citizenship and maintaining close ties with its descendants abroad. Dual citizenship was thus tolerated, although not accepted explicitly. This applied when the acquisition of the second nationality was automatic and inevitable, as in immigration countries with *ius soli* provisions. In this way, for many emigrants, Italian citizenship became a kind of “substitute nationality” that could be used when needed. This attitude of the liberal governments in Italy was radically interrupted when fascism seized power in 1922 (Zincone 2010).

5.2 Citizenship for Italians in “lost territories”

The current Italian citizenship regulations (Legge 1992, 2000, 2006)⁹ do not exclude multiple citizenships and even consciously accept them – as the regulations state – in recognition of the changed world situation and the resulting “anachronistic” character of an “exclusive concept of citizenship” that runs counter to the “widespread tendencies in the relevant European legislations, starting with Italian legislation”.¹⁰

In fact, as already mentioned, Italy not only denounced Chapter I of the 1963 Convention with effect from 4 June 2010 (Circolare 2009) – which had *de facto* never been implemented at national level – but already before that enacted a series of regulations enabling foreigners, with more or less clear emphasis on their *italianità*, to acquire Italian citizenship without having to renounce the previous one. This applies in particular (see

⁸ There are different data and estimates on this issue. Zincone speaks of around 60 million “*oriundi*”. Between 1998 and 2007, according to the ministry’s calculations, around 800,000 people outside Italy applied for Italian citizenship (Zincone 2010, 5).

⁹ A useful overview, also with a small comparative law section, can be found in Dossier No. 239/2015 of the “*Servizio studi del Senato*” (2015). See Senato della Repubblica (2020).

¹⁰ Written answer of 15.12.2008 to Parliamentary Question No 4-01176 (Chamber of Deputies) by Alfredo Mantica, then Under-Secretary of State at the Ministry for Foreign Affairs: www.camera.it/_dati/lavori/stenografici/sindisp/framesed.asp?sed=057&min=02 (28.03.2018).

Legge 2000) to the former citizens of the Habsburg Empire and their descendants who were “born and resident” in the territories currently belonging to Italy or in former Italian territories later ceded to Yugoslavia (Peace Treaty 1947 and Osimo Treaty 1975) and who emigrated before 16 July 1920. Excluded from this possibility, however, are those who emigrated to the territory of the present-day Republic of Austria before the mentioned deadline; under this provision, they are not entitled to acquire Italian citizenship.

A definitive opening towards dual citizenship for Yugoslav citizens of Italian nationality took place with the 1992 law. From that moment onwards, applications for an Italian passport could be made by persons born in territories formerly belonging to Italy which had been ceded to Yugoslavia on the basis of the 1947 Peace Treaty and the Osimo Treaty of 1975 which concerns the former Zone B of Trieste. Later, the Italians in Yugoslavia demanded that this right to dual citizenship be extended not only to those who had been born during this period but also to their descendants. As can be seen, there was no explicit ethnic link for the group of persons covered by this legislation. It refers exclusively to birth and residence in a particular territory and to the fact of emigration before a historical reference date.

In 2006, the possibility of acquiring Italian citizenship without renouncing one’s present foreign citizenship was opened up to former Italian citizens living in territories which were ceded to Yugoslavia and which today belong to Slovenia and Croatia, as well as to their direct descendants of “Italian language and culture” (see Legge 2006). In their case, an explicit link is made to a linguistic-cultural condition that comes considerably close to an ethnic characterisation of the beneficiary group. The law uses different references to *italianità* for the “ancestors of origin” and their descendants. For the former, in addition to previous Italian citizenship and residence in the ceded territories, it is required that they meet the conditions for opting between the old and new citizenship that was already provided for in the respective treaties. This concerned the descendants of those persons who had not at that time opted for Italian citizenship within the time limits laid down in the respective treaties. These could “re-opt” if their ancestors could have opted but failed to do so. However, now it is not enough for them to have ancestry, they must also show current characteristics of their *italianità*.

The 1947 Peace Treaty (Article 19 (2)) only refers to persons whose “ordinary language is Italian” (“*la cui lingua usuale è l’italiano*”) (Trattato di pace 1947), whereas the 1975 Osimo Treaty (Article 3) (see Trattato 1977, Art. 3) already speaks of persons who are “part of the Italian ethnic group” (“*parte del gruppo etnico italiano*”) and distinguishes them from persons of the “Yugoslav ethnic group”. It remains unclear who precisely belongs to the latter group given the linguistic, national and religious diversity of multiethnic Yugoslavia at that time.

Direct descendants of the aforementioned “ancestors” – who were also taken into account in the law of 2006 – must, however, prove that they are of “Italian language and culture”, without the legislator itself directly specifying this condition. This was finally

clarified by the Italian Ministry of the Interior's own circulars, both for the relatives in former Austrian territories and for the inhabitants of the territories "lost" to ex-Yugoslavia. Nationals of the Dual Monarchy who emigrated between 1867 and 1920 and who were resident before 16 July 1920 in the territories currently belonging to Italy and annexed to Yugoslavia by the Peace Treaty of 1947 and the Osimo Treaty of 1975 must, among other documents, provide "certificates" issued by Italian "circles, associations, communities" present at the foreign place of residence of the applicant, which show "suitable elements" of their *italianità*.

The following assessment guidelines are listed as examples: "level of common knowledge" ("*livello di notorietà*") – that the applicants and their ancestors belong to the "Italian ethnic-linguistic group", declaration of "national belonging", date of beginning of "membership" in the certifying institution and any other useful documentation on their affiliation with the "Italian ethnic-linguistic group", such as school attendance certificates, school reports, family correspondence (Circolare 2001, 2006). In a certain sense it was a kind of "reconquest" of persons on the basis of ethnonational standards.

This "ethnicisation" of citizenship took place during the governments of Berlusconi, especially between 2001 and 2006 with Alleanza Nazionale (AN) as a coalition partner. This successor party to the neo-fascist Movimento Sociale Italiano (MSI) had always distinguished itself by a nationalist policy not only in favour of the Italians in Slovenia and Croatia but also by its claim for the recapture of the territories lost to Yugoslavia after the Second World War. The party secretary of AN, Gianfranco Fini, was Foreign Minister in Berlusconi-led governments from 2004 to 2006. The same Fini, then Party Secretary of the MSI, together with the leader of the party in Trieste, had thrown a bottle painted with the colours of the Italian flag into the sea on the coast of Istria on 08 November 1992 with the message: "It is also our oath: 'Istria, Fiume, Dalmatia: we will return!'" (Martocchia 2009). From 2001 to 2006, Mirko Tremaglia, an exponent of AN and formerly of MSI, was the *Ministro per gli Italiani nel Mondo* (Minister for Italians in the World). Tremaglia was considered the representative *par excellence* of the "*italianità*" (Ministero degli Affari Esteri e della Cooperazione Internazionale 2012).

These were the political conditions and the political climate that accompanied the creation of the 2006 law. The recourse to ethnicity and *italianità* was repeatedly expressed in the debate surrounding this law. It already began with a draft law of 2002, in which Article 1 immediately referred to the Italians concerned as an "ethnic group" (Camera dei Deputati 2002) or later on to the "right of blood" to citizenship (Camera dei Deputati (2004). Even after the law was passed, this wording remained the same (Camera dei Deputati 2008), to quote just a few examples.

The possibility to apply for Italian citizenship for Italians in Slovenia and Croatia was offered unilaterally by Italy without consulting with the two governments. The result was diplomatic disgruntlement with Italy but the Croatian church also expressed reservations. Ljubljana and Zagreb spoke of a new "imperialism of Italy" that wanted to reconquer its

lost territories. The primary fears were that the restoration of Italian citizenship would provide a pretext for the extreme right to demand a revision of the state treaties.

At this point it is important to look at the international practice whereby states often take measures in favour of their own ethnic minorities in a foreign state, which go as far as granting citizenship. The granting of citizenship falls within the exclusive competence of the state (cf. Kochenov 2019) but the question is where the line is drawn between interference in favour of minorities outside a state's own territory and a commitment to good neighbourly relations and non-interference in the internal affairs of other states.

A number of international documents stipulate that minority protection is also an international and not just a purely domestic matter. An important foundation for this is provided by the "Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations" (cf. OSCE 2008), the guidelines for which are soft law and not binding but which are used for the interpretation of harder legal norms. Thus, not all measures in favour of minorities in another state have the same relevance. The awarding of citizenship to a numerically significant minority in a state with which the kin state is in conflict has different implications than, for example, financial support to a minority for cultural purposes (Palermo 2020).

Such contradictions and conflicts in the balance between good neighbourly relations, restraint in interfering with other states' domestic affairs and granting rights to the "foreign minority" emerged in the relationship between Italy on the one hand and Slovenia and Croatia on the other. The Italian state grants the Italians in Slovenia and Croatia the right to apply for Italian citizenship. However, Italy has protested against Austria's proposal to grant Austrian citizenship to German- and Ladin-speaking South Tyroleans (see Atz and Haller's Chapter 14 in this volume; also Denicolò and Pallaver 2018). The two cases are very different – especially in their numerical dimension – but Italy's position seemed somewhat incoherent.

We find the same contradiction in Croatia, which protested against the granting of dual citizenship to its Italian minority but applied a similar policy to the Croats in Bosnia, who make up 18 per cent of the population there. However, Croatia was unable to put up too much resistance to Italy's plan as, during those years, Croatia was conducting negotiations for EU accession and wanted to avoid an Italian veto (Palermo 2020).

We can see, particularly in the relationship between Italy and Croatia, that the granting of dual citizenship by kin states to their foreign minorities is often less based on international rules and good neighbourly relations than on power relations. In view of the strong ethnonational tendencies of the Italian legislator in that period, when the centre-right governments under Silvio Berlusconi with the post-fascists of Alleanza Nazionale were in power. This may also help to explain why Italy initially signed the European Convention on Nationality of 1997 but has not ratified it until now, since Article 5 of the Treaty provides that the provisions of a Contracting State relating to nationality "shall not contain distinctions or include any practice which amounts to discrimination

on the grounds of sex, religion, race, colour or national or ethnic origin" (Council of Europe 1997, Art. 5).

In strictly numerical terms, these rules concern relatively few persons. Following the exodus of the Italian population between 1945 and 1960 (Wörsdorfer 2009), there are now around 2,500 Italians living in Slovenia and around 20,000 in Croatia. About 20,000 of them have Italian citizenship in addition to Slovenian and Croatian citizenship – thus, dual citizenship (Liberto 2018).

6. A new approach: *ius culturae*

After various failed attempts to facilitate access to citizenship for foreigners in Italy, a novel principle of *ius culturae* was given greater prominence alongside *ius soli* and *ius sanguinis*. The *ius culturae* links citizenship to school attendance, which is regarded as a central factor of socialisation leading to the acquisition of "Italian culture" (Forlati 2019). According to a draft law of 2015, a minor foreign citizen who was born in Italy or who arrived in Italy before the age of 12 and attended school for five years on a regular basis or attended vocational training courses for three to four years in order to obtain a vocational qualification should receive Italian citizenship. This also applies to children who have successfully completed five years of primary school or at least one school cycle (primary or secondary school) (UNICEF 2019). In addition to the *ius culturae*, the draft law also provided for a conditional *ius soli*. Anyone born in Italy to foreign parents, at least one of whom has a permanent residence permit or an EU long-term residence permit, should be able to apply for Italian citizenship (Carmagnani and Pastore 2018; Ministero del Lavoro e delle Politiche Sociali 2019b). Under the conditions indicated, these persons would have a direct entitlement to citizenship (see Senato della Repubblica 2015).

The final breakthrough should then have taken place in the previous legislative period. A bill was passed by the Italian Chamber of Deputies but it was not dealt with in time by the Senate in 2017. It included a strengthening of the *ius soli* and *ius culturae* principles in the Italian legislation and did not provide for any restriction on dual citizenship in the case of the acquisition of Italian citizenship via *ius culturae* or the conditional *ius soli*.

Under the current law of 1992, dual citizenship is not excluded either but, given the low number of naturalisations, remains a relatively marginal side-effect of the possibility of granting citizenship to foreigners in certain cases. However, the issue of multiple citizenship may well gain greater salience when the debate on a reform of Italian citizenship law under the new aspect of immigration is resumed.

7. Conclusions

The normative reference point for Italian citizenship today is Law No. 91/1992, which regulates the acquisition of Italian citizenship through *ius sanguinis* and, in only a few exceptional cases, also through *ius soli*. This law was already an anachronism when it

was passed, especially since the international trend has long since moved in a different direction (Baraggia 2017). Moreover, after the Second World War, especially in the 1960s, Italy had undergone a process of radical social transformation and, from the 1970s onwards, had been transformed from a country of emigration into a country of immigration.

It was the massive emigration since the second half of the nineteenth century that led to Italy's first organic citizenship law of 1912, which strengthened the ties with its emigrants through *ius sanguinis*. However, at the same time, Italy could not avoid allowing dual citizenship as an option through the ethno-cultural back door for these "Italians abroad". The 1992 law adopted the logic of the 1912 law, even though the social framework had changed completely.

The historical-political and legal analysis of dual citizenship in Italy confirms, lastly, the statement formulated at the beginning of this chapter – that questions of emigration and immigration have essentially shaped and continue to shape the attitude of Italy towards dual citizenship. A special case is that of citizens of Italian nationality who, as a result of war, live in states whose territories were formerly part of Italy – specifically, Italians in Slovenia and Croatia. Over the past 30 years there has been an increasing tendency towards the "ethnicisation" of the concept of the nation state, which is not unique in Europe and which has also had a strong influence on the debate on granting citizenship to foreigners, as well as on the debate on dual citizenship. At the same time, the granting of citizenship to ethnic minorities by kin states has shown that the decisive factor here is not so much international norms as international power relations.

In all these issues, the Italian legislator has always been ambivalent and contradictory. Based on the ethno-cultural narrative of its own nation, Italy has always pursued an inclusive policy towards Italian emigrants but an exclusionary tendency towards immigrants. Depending on the political orientation of the government, the "ethnic model" of the centre-right governments with its ethnic colouring of *ius sanguinis* contrasts with an integration model promoted by the centre-left governments who, today, support *ius culturae* and *ius soli*. If the latter proposals were adopted, they would open up access to dual citizenship to large groups of first and second generations of immigrant origin that are currently confined to a status as foreigners.

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